U.S. Appl. Serial No. 10/773,532
Amendment And Response

Docket No.: 085804.010601

REMARKS

Claims 1-42 are in the application. Claims 26-42 have been withdrawn without prejudice. Claims 1, 13, 26, 36 and 38 are independent. Claims 1 and 13 have been amended. No new matter has been added. Reconsideration and further examination are respectfully requested.

Claims 1-12 were rejected under 35 U.S.C. §112, second paragraph for allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Without conceding the correctness of the rejection, and solely to advance prosecution of the present claims, Claim 1 has been amended, thereby obviating the claim rejections.

Claim 13 is rejected under 35 U.S.C. § 112, second paragraph, as lacking antecedent basis. More particularly, the Office Action indicates that there "the client" in the claim language "the client identifying information" lacks antecedent basis. In response, the Applicant amends Claim 13 to read "identifying information of the client." Reconsideration and withdrawal of the 35 U.S.C. §112, second paragraph rejections is respectfully requested.

By way of a non-limiting example and in accordance with one or more embodiments, an ingest queue server, e.g., ingest queue server 926 of Figure 10 of the present application, is located at a central site and directs movement of a file ingested by an ingest server, e.g., ingest server 908, based on identifying information associated with a client, e.g., client 102, that uploads the content to ingest server 908. A file management server, e.g., file management server 907, reads the client's uploaded content from ingest server 908, and moves it to a storage server, e.g., storage server 906, as directed by ingest queue server 926. The storage server 907 can be located at a specific site, e.g., a site identified for client 102, such as a primary site of the client that is in geographic proximity to end users of client 102, as identified by the client identifying information. By way of a further non-limiting example, one or more streaming media servers, e.g., media servers 920, can read the content from the storage server 907 at the primary site identified for client 102.

Claims 1, 2, 6, 8, 11-14, 18, 20, 23 and 24 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Publication No. 2001/0034786 (Baumeister) and U.S. Patent NO. 6,970,939 (Sim); Claims 3, 4, 7, 9, 15, 16, 19, 21 and 25 were rejected under 35 U.S.C. §103(a)

as being unpatentable over Baumeister in view of Sim and U.S. Patent No. 6,006,264 (Colby);

Claims 5 and 17 were rejected under 35 U.S.C. §103(a) as being unpatentable over Baumeister

in view of Sim and U.S. Publication No. 2002/0019823 (Layeghi); Claims 10 and 22 were

rejected under 35 U.S.C. §103(a) as being unpatentable over Baumeister in view of Sim and U.S.

Publication No. 2002/0120577 (Hans). Reconsideration and withdrawal of the rejections are

respectfully requested for at least the following reasons.

Claim 1 recites a system comprising one or more remote sites, each comprising one or

more first servers configured to receive digital content of a client, and an ingest server

configured to ingest the digital content that is to be received by the first servers, the digital

content to be available to users via the first servers; and a central site geographically remote from

the remote sites, the central site comprising one or more ingest queue servers to direct transfer of

digital content from the ingest server to one or more of the first servers based on client

identifying information.

Baumeister's system for streaming media data in heterogeneous environments differs

from the claimed subject matter of claim 1. Baumeister teaches an application implemented on a

media player transmitting a request for streaming media to a Stream Server Portal. The Stream

Server Portal manages communication between the media player, a database and streaming

servers. The Stream Server Portal initially receives the request for streaming media from the

media player, which comprises a location of the media data to be streamed. Based on the

location information received by the Stream Server Portal from the media player, the Stream

Server Portal chooses a stream server. The Stream Server Portal selects a stream server based on

the storage location of the media data. The media data may be located in a cache of one of the

stream servers. If the media data is not in the identified stream server cache, a stream server

controller, implemented within the identified stream server, initiates a file transfer of the media

data from the database via FTP (File Transfer protocol). The Stream Server Portal then passes

address information to a stream server controller of a stream server. The stream server then

streams the media to the media player.

In the Office Action, the Examiner contends that Baumeister's system for streaming

media data reads on certain of the recited claim elements, and concedes that Baumeister fails to

teach, suggest or disclose digital content upload by a client to a first server. The Office Action

cites Figures 2 and 3 of Baumeister, which teaches an application run on a media player that queries a Stream Server Portal for media by passing the location (address) of the media and the type of media player used to render the media to the Stream Server Portal. The Stream Server Portal chooses a specific stream server that is able to stream the media to the media player. The Stream Server Portal then returns meta data corresponding to the media to the application. The application then invokes the media player to initiate streaming of the media from the selected stream server.

Applicant submits that there is no disclosure in Baumeister of the presently claimed elements in claim 1. Baumeister does not teach, suggest or disclose one or more first servers configured to receive digital content from a client, and an ingest server configured to ingest the digital content that is to be received by the first servers. Baumeister's stream servers are not configured to receive digital content from the client. The stream servers' ability to communicate with the client is entirely orchestrated by the Stream Server Portal. Baumeister's FTP server is also not configured to receive digital content in the manner recited in claim 1. The FTP server in Baumeister is implemented when the Stream Server Portal is unable to find the location of a media file, therefore, the FTP server contacts a database for file retrieval. Additionally, Baumeister does not teach, suggest or disclose a central site geographically remote from the remote sites, the central site comprising one or more ingest queue servers to direct transfer of digital content from the ingest server to one or more of the first servers based on client identifying information. Applicant submits that the identified Stream Server Portal in Baumeister is in stark contrast to the recited claim elements describing the central site of claim 1. The Stream Server Portal selects stream servers based not on client identifying information, but on location information associated with the location of a media file.

Baumeister is silent as to one or more first servers configured to receive digital content from a client, and an ingest server configured to ingest the digital content that is to be received by the first servers, and is also silent as to a central site geographically remote from the remote sites, the central site comprising one or more ingest queue servers to direct transfer of digital content from the ingest server to one or more of the first servers based on client identifying information, as recited in claim 1.

Sim fails to remedy the deficiencies noted with respect to Baumeister, and further fails to teach, suggest or disclose a system that comprises a central site geographically remote from the remote sites that comprises one or more ingest queue servers, which direct transfer of digital content from an ingest server that ingests digital content to one or more first servers based on client identifying information. Sim describes a content management server that receives content uploaded from a client and then issues a command that is distributed to distribution servers in the network so that each distribution server that receives the command can determine for itself whether or not it should have the content. In contrast, Claim 1 recites an ingest queue server at a central site that directs transfer of digital content to one or more servers based on client identifying information. This is much different from Sim's distributed approach, in which each distribution server makes its own decision as to whether or not it should have the uploaded content.

Baumeister and Sim each fail to teach, suggest or disclose the system of Claim 1, which comprises one or more remote sites comprising one or more first servers configured to receive digital content from a client, and an ingest server configured to ingest the digital content that is to be received by the first servers, and a central site geographically remote from the remote sites, the central site comprising one or more ingest queue servers to direct transfer of digital content from the ingest server to one or more of the first servers based on client identifying information, as recited in claim 1.

Thus, because Baumeister does not teach or suggest the above elements, it is respectfully submitted that Claim 1 is patentable over Baumeister. It is further submitted that because Sim also fails to teach or suggest the above elements, Claim 1 is patentable over Sim. Furthermore, it is respectfully submitted that Baumeister, alone or in combination with Sim or any reference of record, could not render Claim 1 obvious, as no such combination would yield all of the elements in the presently recited claims. Therefore, Baumeister cannot form the basis of a proper § 102 or § 103 rejection alone, and a combination with other references would not disclose all present claim elements, and thus not form the basis of a proper § 103 rejection. Therefore, Applicant respectfully requests withdrawal of this rejection.

For at least the reasons discussed, it is submitted that the grounds for rejection under § 103(a) are legally and factually deficient. Reconsideration and withdrawal of the § 103(a)

rejection are therefore respectfully requested. For at least the foregoing reasons, Claim 1 and the claims that depend from claim 1 are believed to be in condition for allowance. In addition, for at least the same reasons stated above with respect to claim 1, independent Claim 13 is also believed to be in condition for allowance, and accordingly, the claims that depend from Claim 13 are also believed to be in condition for allowance.

Claims 3, 4, 7, 9, 15, 16, 19, 21 and 25 were rejected under 35 U.S.C. §103(a) as being unpatentable over Baumeister in view Sim and Colby. It is respectfully submitted that the features described above with respect to Claims 1 and 13 from which Claims 3, 4, 7, 9, 15, 16, 19, 21 and 25 depend, respectively, are applicable to this claim as well, and that Colby does not remedy these deficiencies. Therefore, Applicant submits that a combination of Baumeister, Sim and Colby would not yield all of the elements in the presently cited claims, and therefore the combination cannot form the basis of a proper obviousness rejection. Moreover, it is respectfully submitted that even if the combination of references yielded all of the claim elements, which it does not, the alleged reasoning for the combination of Baumeister and Colby is insufficiently presented.

Claims 5 and 17 were rejected under 35 U.S.C. §103(a) as being unpatentable over Baumeister in view of Sim and Layeghi. It is respectfully submitted that the features described above with respect to Claims 1 and 13 from which Claims 5 and 17 depend, respectively, are applicable to this claim as well, and that Layeghi does not remedy these deficiencies. Therefore, Applicant submits that a combination of Baumeister, Sim and Layeghi would not yield all of the elements in the presently cited claims, and therefore the combination cannot form the basis of a proper obviousness rejection. Moreover, it is respectfully submitted that even if the combination of references yielded all of the claim elements, which it does not, the alleged reasoning for the combination of Baumeister and Layeghi is insufficiently presented.

Claims 10 and 22 were rejected under 35 U.S.C. §103(a) as being unpatentable over Baumeister in view of Sim and Hans. It is respectfully submitted that the features described above with respect to Claims 1 and 13 from which Claims 10 and 22 depend, respectively, are applicable to this claim as well, and that Hans does not remedy these deficiencies. Therefore, Applicant submits that a combination of Baumeister, Sim and Hans would not yield all of the elements in the presently cited claims, and therefore the combination cannot form the basis of a

U.S. Appl. Serial No. 10/773,532
Amendment And Response
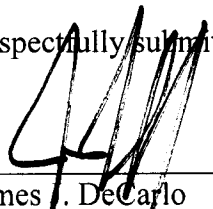
Docket No.: 085804.010601

proper obviousness rejection. Moreover, it is respectfully submitted that even if the combination of references yielded all of the claim elements, which it does not, the alleged reasoning for the combination of Baumeister and Hans is insufficiently presented.

Having responded to all objections and rejections set forth in the outstanding Office Action, it is submitted that the currently pending claims are in condition for allowance and Notice to that effect is respectfully solicited. Additional characteristics or arguments may exist that distinguish the claims over the prior art cited by the Examiner, and Applicant respectfully preserves their right to present these in the future, should they be necessary. In the event that the Examiner is of the opinion that a brief telephone or personal interview will facilitate allowance of one or more of the above claims, he is respectfully requested to contact Applicant's undersigned representative.

The Applicant's attorney may be reached by telephone at 212-801-6729. All correspondence should continue to be directed to the address given below, which is the address associated with Customer Number 76058.

The Commissioner is hereby authorized to charge any required fee in connection with the submission of this paper, any additional fees which may be required, now or in the future, or credit any overpayment to Account No. 50-1561. Please ensure that the Attorney Docket Number is referenced when charging any payments or credits for this case.

Respectfully submitted,

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